



A REPORT
TO THE
MONTANA
LEGISLATURE

FINANCIAL-COMPLIANCE AUDIT

*Department of Labor
and Industry*

*For the Two Fiscal Years Ended
June 30, 2009*

NOVEMBER 2009

LEGISLATIVE AUDIT
DIVISION

09-15

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James Gillett
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November 2009

The Legislative Audit Committee
of the Montana State Legislature:

This is our financial-compliance audit report on the Department of Labor and Industry for the two fiscal years ended June 30, 2009. Included in this report are internal control and compliance issues related to travel, procurement, recording financial activity, and two federal programs: the Workforce Investment Act and Unemployment Insurance. It also contains one disclosure issue about services provided to other agencies for the benefit of those other agencies without compensation to the department.

We thank the Commissioner and department staff for their assistance and cooperation during the audit.

Respectfully submitted,

/s/ Tori Hunthausen

Tori Hunthausen, CPA
Legislative Auditor

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APPOINTED AND ADMINISTRATIVE OFFICIALS

Department of Labor and Industry Keith Kelly, Commissioner
Dore Schwinden, Deputy Commissioner
Jack Kane, Administrator, Business Standards Division
Jerry Keck, Administrator, Employment Relations Division
Mike Cooney, Administrator, Workforce Services Division
Tammy LaVigne, Administrator, Centralized Services Division
Roy Mulvaney, Administrator, Unemployment Insurance Division
James Shea, Judge, Workers' Compensation Court
Jan Lombardi, Executive Director, Office of Community Services

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REPORT SUMMARY

Department of Labor and Industry

This financial-compliance audit report contains the results of our audit of the Department of Labor and Industry for the two fiscal years ended June 30, 2009. We issued an unqualified opinion on the financial schedules contained in this report. This means the reader can rely on the financial information presented and the supporting detailed information on the state's accounting records.

This report contains ten recommendations. The recommendations relate to the department's internal controls and compliance with federal and state regulations. Six of the recommendations relate to areas where the department can improve its internal controls.

American Recovery and Reinvestment Act (ARRA) funds will flow through the department's control structures. This report contains six recommendations for improved controls or compliance with existing control structures where the department receives and spends ARRA funds.

This report contains a disclosure issue regarding services provided to other agencies for the benefit of the other agencies without compensation to the department.

The prior audit report contained 13 recommendations. The department implemented all 13 recommendations.

The listing below serves as a means of summarizing the recommendations contained in the report, the department's response thereto, and a reference to the supporting comments.

Recommendation #1.....6

We recommend the department:

- A. Complete documentation of its remaining internal controls.
- B. Monitor and test the implementation of its internal controls in accordance with state accounting policy.

Department Response: Concur.....B-3

Recommendation #2.....7

We recommend the department follow its established controls and operate a Benefits Accuracy Measurement program in accordance with state administrative rules and federal regulations.

Department Response: Concur.....B-3

Recommendation #3.....8

We recommend the department:

- A. Return the excess cash in the Unemployment Insurance benefit account to its rightful owners.

Department Response: Concur.....B-3

- B. Implement controls to ensure it minimizes its federal cash balances in compliance with federal regulations.

Department Response: Concur.....B-3

Recommendation #4.....10

We recommend the department follow its established controls to ensure its employees' salaries and benefits are charged to programs in accordance with state and federal laws and regulations.

Department Response: Partially ConcurB-4

Recommendation #5.....11

We recommend the department follow its internal control procedures over processing travel and pro-card expenditures to ensure compliance with state and federal laws and regulations.

Department Response: Concur.....B-4

Recommendation #6.....12

We recommend the department establish internal control procedures to ensure it properly calculates its indirect cost rate in accordance with federal regulations.

Department Response: Concur.....B-4

Recommendation #7.....13

We recommend the department establish internal control procedures to ensure it reports expenditures of federal American Recovery and Reinvestment Act assistance on its Schedule of Expenditures of Federal Awards in accordance with federal regulations.

Department Response: Concur.....B-4

Recommendation #8.....14

We recommend the department:

- A. Document its internal controls over recording private-purpose trust fund activity and deferred revenue.

Department Response: Concur.....B-4

- B. Record private-purpose trust fund activity and deferred revenue in accordance with state accounting policy.

Department Response: Concur.....B-5

Recommendation #9 15

We recommend the department deposit wage collections in accordance with state law.

Department Response: Concur..... B-5

Recommendation #10 16

We recommend the department provide its Workforce Investment Act subrecipients with the federal grant award and the Catalog of Federal Domestic Assistance numbers in accordance with federal regulations.

Department Response: Concur..... B-5

Chapter I – Introduction

Introduction

We performed a financial-compliance audit of the Department of Labor and Industry (department) for the two fiscal years ended June 30, 2009. The objectives of the audit were to:

1. Obtain an understanding of the department's control systems to the extent necessary to support our audit of the department's financial schedules and, if appropriate, make recommendations for improvements in management and internal controls of the department.
2. Determine department compliance with selected applicable laws and regulations.
3. Determine if the financial schedules present fairly the results of operations of the department for each of the fiscal years ended June 30, 2009, and June 30, 2008.
4. Determine the implementation status of prior audit recommendations.

Auditing standards require us to communicate, in writing, deficiencies in internal control we identified as a result of audit objective #1 above and considered to be significant or material. A deficiency in internal control exists when the design or operation of a control does not allow management or employees to prevent, or detect and correct on a timely basis, misstatements. A significant deficiency is one or more deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. A material weakness is one or more significant deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the department's financial schedules will not be prevented, or detected and corrected on a timely basis.

Table 1 below outlines the status of significant deficiencies and material weaknesses we identified during this audit.

| Table 1 <u>Summary of Deficiencies in Internal Control</u> | | | |
|---|------------------------|-------------------|------|
| Subject | Significant Deficiency | Material Weakness | Page |
| Accounting Issues related to Private-Purpose Trust Fund Activity and Deferred Revenue | Yes | Yes | 13 |

This report contains ten recommendations to the department. In accordance with §5-13-307, MCA, we analyzed and disclosed, if significant, the costs of implementing

the recommendations made in this report. Other areas of concern deemed not to have a significant effect on the successful operations of the department are not specifically included in the report, but have been discussed with management.

As required by §17-8-101(6), MCA, we analyzed the reasonableness of Internal Service Fund rates charged and fund equity balances at the department. The statute requires fees and charges for services be based upon commensurate costs. We found the rates were commensurate with costs for the activities in the Internal Service Fund and the fund balance was reasonable in fiscal years 2008 and 2009.

Background

The Department of Labor and Industry operates as part of a national employment, unemployment insurance benefits, and training system that assists individuals in preparing for and finding jobs. The department assists employers in finding workers and pays workers unemployment benefits if they are temporarily unemployed through no fault of their own.

The department enforces state and federal labor, state wage and hour, workers' compensation, discrimination, and state and federal health safety laws. In addition, the department conducts research, collects statistics, and provides adjudicative services in labor management disputes. The department also administers building codes enforcement, weights and measures, and professional and occupational licensing.

The department is organized into the Commissioner's Office, five divisions, and two administratively attached units. A brief description of the Commissioner's Office, divisions and administratively attached units with their full-time equivalent (FTE) follows:

Commissioner's Office, Office of Legal Services and Office of Human Resources

(27.50 FTE) – The Commissioner's Office provides administrative and support services to the department. It is responsible for the overall administration of the department, including direction and program focus. The Office of Legal Services provides legal services for the department and administratively attached boards and commissions. The Office of Human Resources provides personnel-related services to the department.

Centralized Services Division (41.50 FTE) – Centralized Services provides central services including payroll, accounting, purchasing, budgeting, computer, and general services. It provides administrative hearing and dispute resolution services.

Employment Relations Division (128.1 FTE) – Employment Relations administers and enforces federal and state statutes related to wage and hours, labor relations,

workers' compensation, workplace safety, contractor registration, and human rights. In addition, both the Board of Personnel Appeals and Human Rights Commission, which are administratively attached to the department, are part of this division.

Unemployment Insurance Division (155 FTE) – Unemployment Insurance administers the state's unemployment insurance laws and related federal programs. The division operates through the Contributions, Program Support, and Claims Processing Bureaus. The Board of Labor Appeals that is administratively attached to the department is part of this division. The Unemployment Insurance fund balance in the Enterprise Fund at June 30, 2009, is \$197,280,889.

Workforce Services Division (302.95 FTE) – Workforce Services administers and operates employment, training, and re-training programs including the workforce centers. It collects, analyzes, and disseminates employment statistics, provides services to veterans and dislocated workers, and offers trade adjustment assistance to individuals affected by the North American Free Trade Agreement.

Business Standards Division (149.53 FTE) – Business Standards oversees professional and occupational licensing, weights and measures, and building codes administration. Thirty-three licensing boards that are administratively attached to the department are part of this division. Table 2, following this section, provides the name of each licensing board.

Workers' Compensation Court (6 FTE) – The court provides a legal forum for Montana's employees and the insurance industry to resolve disputes arising out of work-related injuries and occupational disease.

Office of Community Services (4 FTE) – The office administers federal programs including AmeriCorps and Campus Corps and coordinates community service and volunteer efforts statewide.

Table 2
Business Standards Division Boards

| |
|---|
| Board of Athletic Trainers |
| Board of Private Alternative Adolescent Residential or Outdoor Programs |
| Board of Barbers and Cosmetologists |
| Board of Sanitarians |
| Board of Public Accountants |
| Board of Realty Regulation |
| Board of Real Estate Appraisers |
| Board of Architects |
| Board of Landscape Architects |
| Board of Professional Engineers and Professional Land Surveyors |
| State Electrical Board |
| Board of Plumbers |
| Board of Outfitters |
| Board of Private Security Patrol Officers and Investigators |
| Alternative Health Care Board |
| Board of Medical Examiners |
| Board of Dentistry |
| Board of Pharmacy |
| Board of Nursing |
| Board of Nursing Home Administrators |
| Board of Optometry |
| Board of Chiropractors |
| Board of Radiologic Technologists |
| Board of Speech-Language Pathologists and Audiologists |
| Board of Hearing Aid Dispensers |
| Board of Psychologists |
| Board of Veterinary Medicine |
| Board of Funeral Service |
| Board of Social Work Examiners and Professional Counselors |
| Board of Physical Therapy Examiners |
| Board of Occupational Therapy Practice |
| Board of Respiratory Care Practitioners |
| Board of Clinical Laboratory Science Practitioners |

Source: Compiled by Department of Labor and Industry personnel.

Prior Audit Recommendations

The prior financial-compliance audit of the Department of Labor and Industry for the two fiscal years ended June 30, 2007, contained 13 recommendations. The department implemented all 13 recommendations.

Chapter II – Findings and Recommendations

Internal Control Documentation, Monitoring, and Testing

The department did not document all of its internal controls and did not monitor and test its internal control procedures.

State accounting policy required the Department of Labor and Industry (department) to document its internal controls for major financial processes by June 30, 2008, and all others by June 30, 2009. Agencies must update their internal control documentation, to reflect current procedures, prior to each following fiscal year-end. To assist agencies with the implementation process, the Department of Administration issued an Internal Control Guidebook. The guide includes an internal control evaluation and monitoring plan, which recommends department management conduct reviews, tests and analyses of internal controls to ensure their proper operation throughout the year.

Based on the guidance in the Internal Control Guidebook the department began documenting its internal control procedures in fiscal year 2008 and fiscal year 2009. As of July 2009, we identified instances where the department had not documented controls for some of its smaller federal programs, some of its Centralized Services Division functions, the Workers Compensation Court, and the Office of Community Services.

In fiscal year 2009, the department established monitoring procedures for two of its critical centralized service controls and performed monitoring tests of those controls. The department had not established monitoring procedures for any of its other documented internal controls. In June 2009, the department hired an individual to perform a risk analysis over the department's internal controls and develop a monitoring system for testing these control procedures. As of July 2009, the department was still at the risk analysis stage.

By not documenting and testing internal controls, the department cannot verify its controls over reporting financial activity and its controls over compliance with state and federal laws and regulations are operating as designed. The department should complete documentation of its internal controls and conduct reviews, tests and analyses to ensure controls are operating the way the department intends.

RECOMMENDATION #1

We recommend the department:

- A. *Complete documentation of its remaining internal controls.*
 - B. *Monitor and test the implementation of its internal controls in accordance with state accounting policy.*
-

Unemployment Insurance

The department operates the Unemployment Insurance program (UI). It collects unemployment insurance premiums from employers in the state and provides UI benefits to eligible individuals. In fiscal years 2008 and 2009, it paid unemployment benefits of \$90,333,065 and \$234,246,830, respectively. The department received funding from the American Recovery and Reinvestment Act. These funds flow through the control structures discussed in the following two sections.

Benefits Accuracy Measurement

During fiscal year 2009, the department did not comply with federal regulations related to verifying the accuracy of benefits.

Federal regulations and the administrative rules of Montana require the Benefits Accuracy Measurement (BAM) program to assess the accuracy of the UI benefit payments and denied claims. These regulations require the department's BAM unit to draw a weekly sample of paid and denied claims, review the records, and contact the claimant, employers, and third parties (either in person, by telephone, or by fax) to verify the accuracy of all the information pertinent to the paid or denied claim that was sampled. The BAM investigators are also required to review cases to determine if the decisions adhered to state law and policy, thus providing internal control over eligibility determinations.

Department management directed the BAM Unit to stop completing BAM reviews of paid and denied claims after the fourth week of January 2009. The department continues to pull claims, but department employees do not review the claims for accuracy and adherence to state law and policy. BAM personnel were redirected to assist with processing UI claims activity.

The department experienced a significant increase in UI claims activity and workload between 2007 and 2008 and expected that activity and workload to increase steadily

in 2009. The department took other actions to address the increased workload, such as hiring additional employees and working overtime, but believed redirecting BAM personnel was also necessary in order to process claims in a timely manner.

The department should follow its established control structure by completing its BAM reviews in accordance with state and federal regulations.

RECOMMENDATION #2

We recommend the department follow its established controls and operate a Benefits Accuracy Measurement program in accordance with state administrative rules and federal regulations.

Cash Management

The department does not have adequate controls to ensure it complies with state and federal cash management requirements for its UI program.

Federal regulations state the department must not draw funds from its Unemployment Insurance Trust Fund or from a federal account within the Unemployment Insurance Trust Fund in advance of its actual immediate cash needs.

Excess cash in the UI benefit account

The department transfers cash from the UI trust fund to its benefit account to pay its UI benefits. In fiscal year 2008, department personnel determined the benefit account had excess cash of about \$6.6 million. Upon completion of research in fiscal year 2008, the department identified reasons for \$4.8 million of the excess and transferred that cash back to the UI trust fund.

Throughout the audit period, the department tried to identify additional reasons for the remaining \$1.8 million of excess cash on hand in its benefit account. It amended the current Treasury State Agreement to reflect the accurate warrant clearance pattern and monitored the fluctuating cash balance in the benefit account. As of July 2009, the department was unable to identify any additional reasons for the remaining excess cash in the benefit account. The department should reconcile its benefit account and transfer the remaining excess cash as appropriate.

Cash draws in advance of cash needs

The department disburses its UI benefit payments on a daily basis through direct deposits and warrants. The direct deposit benefits are cashed each day and the warrant benefits are historically cashed over a 16-day period, identifying the department's cash need. On a daily basis the department recovers benefit overpayments and voids for stale-dated warrants. Department personnel deposit these refunds into the benefit account each day. Currently the department returns the refunds to the trust fund and the federal government over the 16-day cash draw pattern for the warrants rather than immediately upon receipt, thus not recognizing its daily cash need is less because it already deposited the refunds in the benefit account. By not returning cash immediately upon receipt through a reduction of the cash request, the department draws more cash from its UI trust fund and the federal government than it needs to pay for its UI Benefits. During fiscal years 2008 and 2009, the department deposited \$1,000,239, and \$991,199, respectively, of refunds in the benefit account.

RECOMMENDATION #3

We recommend the department:

- A. *Return the excess cash in the Unemployment Insurance benefit account to its rightful owners.*
 - B. *Implement controls to ensure it minimizes its federal cash balances in compliance with federal regulations.*
-

Unallowable Personal Service Costs

The department did not follow its procedures or state and federal laws and regulations when paying three employees' salaries and benefits.

According to federal regulations, the department can charge personal service costs to federal programs and indirect cost pools only to the extent of time devoted and specifically identified with that federal program or indirect cost pool. Federal regulations state any cost incurred in violation of a law or regulation or not supported by adequate documentation is not allowed to be charged directly or indirectly to a federal program. The department administers many federal programs including the Unemployment Insurance program, the Workforce Investment Act (WIA), and the Wagner Peyster grant. According to state law, employees must meet specific criteria to charge their time to the Workers Compensation Act (§39-71-201, MCA) or to the Employment Security Account (§39-51-409, MCA).

Department procedures require individuals who work on more than one project to charge their time spent on each project accordingly.

We identified three instances where the department management circumvented the established controls and paid personal services in violation of state and federal laws and regulations.

- ◆ The department loaned one employee to another agency for over a year to perform labor-related functions at the other agency. Throughout the period of the loan, the department paid the employee's salary with state and federal funds. While on loan, the employee performed tasks which did not meet criteria allowing the employee's personal services to be charged to the state and federal funds. Department personnel stated the employee's job changed to include additional duties they had not anticipated. The department paid approximately \$56,000 of personal services while this employee was working at another agency. While it is likely some of these costs would be allowable charges to the state and federal programs, the employee did not maintain records of time spent on various tasks. Without adequate documentation, we are unable to determine the allowability of the personal services charged.
- ◆ The department loaned another employee to two agencies during our audit period. According to the loan agreements, the receiving agency paid the employee's salaries and benefits, except for the health insurance contributions, which remained the department's responsibility and were paid from department funds. Department personnel indicated the department should not have agreed to pay the employee's health insurance contributions while the employee was on loan to the other agencies. Unallowable charges to state and federal funds amounted to \$1,400.
- ◆ The department's indirect cost pool paid an employee's entire salary and benefits as the employee transitioned from a position in Centralized Services Division (CSD) to a position in another division within the department. Department personnel represented there was an informal agreement between the employee's two supervisors allowing the employee to charge CSD throughout the transition period to facilitate the completion of work and training in CSD. The department paid \$6,913 from its indirect cost pool, while the employee worked in both divisions at the department. While it is likely some of these costs would be allowable charges to the indirect cost pool, the employee did not track the time spent working in CSD or the other division. Without adequate documentation, we are unable to determine the allowability of the personal services charged.

Based on the above instances and the circumvention of controls by management, questioned costs charged to various federal programs in the department likely exceed \$10,000.

RECOMMENDATION #4

We recommend the department follow its established controls to ensure its employees' salaries and benefits are charged to programs in accordance with state and federal laws and regulations.

Travel and Procurement Card Expenditures

The department did not follow established travel and procurement controls resulting in noncompliance and questioned costs to the department's federal programs.

Federal regulations require the department to comply with state procurement laws and policies. The legislature enacted laws and the Department of Administration and the department adopted policies governing procurement including travel and procurement card (pro-card) purchases. These laws and policies include submitting a detailed schedule of travel expenditures (§2-18-511, MCA), submitting receipts with purchases, submitting original hotel receipts (MOM 1-0330.00), and documenting actual costs of reasonable transportation and other business expenses, while keeping travel costs as low as possible (§2-18-501(6), MCA, and MOM 1-0300.15). The department received funding from the American Recovery and Reinvestment Act (ARRA) that will flow through the department's travel and pro-card control structures.

The department did not follow state and department laws and policies when processing expenditures as discussed below.

- ◆ The department processed travel claims for five individuals who did not submit detailed travel expense vouchers.
- ◆ The department paid four pro-card transactions without receiving a receipt for each purchase. At our request the department obtained three of the four receipts from the vendors.
- ◆ In one instance the department paid travel costs without documentation the travel expenditures were the most cost effective to the department.
- ◆ The department paid hotel expenses when an employee attached a copy of a hotel receipt rather than the original receipt to the expense voucher.

The department paid \$6,398 of travel and procurement costs in violation of state and department laws and policies. The department's internal control procedures failed to catch these errors. Department personnel said these transactions should not have processed without adequate documentation.

The department has over 800 employees, and in fiscal years 2008 and 2009, paid approximately \$975,000 in federal funds, either directly or indirectly for travel costs. Because it did not follow state and department procurement, and travel laws and policies, questioned costs charged to various federal programs at the department likely exceed \$10,000.

The department should follow its established control procedures over travel and pro-card transactions to ensure it complies with federal and state procurement regulations.

RECOMMENDATION #5

We recommend the department follow its internal control procedures over processing travel and pro-card expenditures to ensure compliance with state and federal laws and regulations.

Federal Indirect Cost Rate

The department incorrectly calculated the federal indirect cost rate it submitted to the federal government for approval.

Federal regulations allow the department to charge indirect costs to its federal programs. The department calculates its indirect cost rate by dividing total indirect costs by total salaries and benefits. ARRA funds are subject to indirect cost recovery.

The department's policies and procedures for calculating the indirect cost rate are not documented. The employee creating the indirect cost rate uses the department's standard indirect cost rate spreadsheet and updates revenue and expenditure information on the spreadsheet based on queries from the department's accounting records (SABHRS). That employee's supervisor reviews the indirect cost rate calculation for accuracy. The department relies on the employee's and supervisor's knowledge of the department and SABHRS to ensure they obtained the correct information from SABHRS to accurately calculate the indirect cost rate.

Due to staff turnover, the department had three separate employees calculate the indirect cost rates for fiscal years 2008, 2009, and 2010. When department personnel calculated the fiscal year 2009 indirect cost rate, they excluded approximately \$600,000 of salaries and benefits from the baseline, causing the indirect cost rate to be overstated by .11 percent and charging \$20,242 more than it should have to its

federal programs. Department personnel stated this was done in error. The employee calculating the indirect cost rate was new and did not realize the department changed its accounting structure for one bureau. The supervisor reviewing the indirect cost rate was also new and did not detect the bureau's exclusion from the calculation. Due to the fact the department overcharged \$20,242 in federal indirect costs in fiscal year 2009, we question these costs charged to various federal programs.

The department should establish procedures to ensure the employees calculating and reviewing the indirect cost rate calculation include all relevant information, rather than relying on their knowledge of department operations to ensure the calculated rate is accurate.

RECOMMENDATION #6

We recommend the department establish internal control procedures to ensure it properly calculates its indirect cost rate in accordance with federal regulations.

Schedule of Expenditures of Federal Awards

The department did not establish adequate controls to ensure it appropriately reported ARRA funds on its Schedule of Expenditures of Federal Awards.

Federal regulations and instructions from the Office of Budget and Program Planning require the department to report expenditures of ARRA funds separately from non-ARRA funds on its Schedule of Expenditures of Federal Awards (SEFA).

Department personnel responsible for preparing the SEFA were aware the department had expended ARRA funds and modified procedures to identify and report ARRA funds separately. However, these procedures were insufficient to identify all ARRA expenditures.

The department's procedures failed to detect \$38,136 of administrative expenditures paid with ARRA funds.

Establishing procedures to review federal expenditure activity for ARRA funds could have identified the administrative expenditures, and the department may have appropriately reported it on its SEFA.

RECOMMENDATION #7

We recommend the department establish internal control procedures to ensure it reports expenditures of federal American Recovery and Reinvestment Act assistance on its Schedule of Expenditures of Federal Awards in accordance with federal regulations.

Accounting Issues

The department did not follow state accounting policy when recording Private-Purpose Trust Fund activity and Deferred Revenue.

State law and state accounting policy require the department to record all transactions on the state's accounting records in accordance with generally accepted accounting principles by the close of the fiscal year.

Private-Purpose Trust Fund

In fiscal year 2008, the department began collecting Certificates of Deposit and Treasury Notes (security deposits) to pay workers' compensation claims if insurance companies cannot make the payment. These security deposits meet the definition of private-purpose trust fund activity. Generally accepted accounting principles require the department to record activity in a private-purpose trust fund as revenue and fund balance. The department recorded these security deposits as a liability based on outdated guidance from the DOA's state accounting division and discussions among department staff. Centralized Services Division accounting staff were not aware current state accounting policy and generally accepted accounting principles provided guidance on how to record this private-purpose trust fund activity.

In fiscal year 2009, when we informed department staff of the current state accounting policy, which has been in effect since fiscal year 2005, the department appropriately recorded the security deposits it received in fiscal years 2008, and 2009. Because the department did not record the security deposits in accordance with state accounting policy in fiscal year 2008, the department understated its private-purpose trust fund's revenues and fund balance as of June 30, 2008, by \$5,636,380.

Deferred Revenue

The department administers professional and occupational licensing boards. State accounting policy requires the department to recognize licensing board revenues when

they are realizable, measurable, available, and earned. Some licenses are valid for more than a year, which requires the department to recognize revenue over the life of the license, deferring recognition of any unearned portion.

In fiscal years 2008 and 2009, the department did not recognize and defer licensing board revenues in accordance with state accounting policy, causing overstatements and understatements of revenue, deferred revenue, and fund balance for each of the licensing boards that issue multi-year licenses. Five deferred revenue balances did not change between fiscal year 2007, 2008, and 2009, while one increased in fiscal year 2009 when it should have decreased.

Prior to fiscal year 2009, the Centralized Services Division (CSD) personnel relied on the licensing boards to let them know if CSD needed to recognize or defer revenue. In fiscal year 2009, CSD personnel realized the revenues for some licensing boards had not been appropriately recognized. However, they did not correct the errors from previous years and thus, compounded the errors. As of June 30, 2009, the department's state special revenue fund balance is understated by \$1,982,643.

Summary

A contributing factor to the errors discussed above is the department's recent turnover in its Centralized Services Division accounting staff. Established and documented appropriate internal control can mitigate the effect of employee turnover, providing continuity of operations in the midst of employee turnover. A well-documented internal control structure and staff training could have provided department employees adequate knowledge to appropriately record the private-purpose trust fund and deferred revenue activity.

RECOMMENDATION #8

We recommend the department:

- A. *Document its internal controls over recording private-purpose trust fund activity and deferred revenue.*
 - B. *Record private-purpose trust fund activity and deferred revenue in accordance with state accounting policy.*
-

Property Held in Trust

The department did not properly account for wage collections in accordance with state law.

The department collects wages from employers on behalf of individuals who did not receive these wages timely or pursuant to their employment contracts. Section 39-3-213, MCA, in part, requires the commissioner to deposit these wages collected into the wage collection fund and to disburse the wages to the individual entitled to them.

Department personnel were aware of the statute requiring the deposit of wages. However, the department does not deposit all wages in the wage collection fund. It does not deposit the majority of its wage collections because the wages come in the form of a paycheck to the wage claimant, which they forward on to the claimant at the resolution of the wage claim. In instances where the department is unable to resolve the wage claim in a timely manner, the department deposits the funds in the wage collection fund and disburses the funds to the claimant after the wage claim has been resolved. The department has the ability to deposit all wage collections including paychecks payable to the wage claimants. As part of the wage claim filing process, the department receives authority to deposit checks made out to the wage claimant.

By not depositing all of the checks in accordance with state law the department understated additions and reductions to Property Held in Trust by the following amounts in fiscal years 2008 and 2009.

**Table 3
Property Held in Trust (PHIT) Understatements**

| | FY 2008 | FY 2009 |
|----------------------|----------------|----------------|
| Additions to PHIT | \$733,139 | \$485,884 |
| Reductions from PHIT | \$733,139 | \$485,884 |

Source: Compiled by the Legislative Audit Division from department records and SABHRS.

The department should deposit all wages as required by state law.

RECOMMENDATION #9

We recommend the department deposit wage collections in accordance with state law.

Workforce Investment Act

The department did not provide all required information to its Workforce Investment Act subrecipients.

Federal regulations require the department to identify the federal award number and the Catalog of Federal Domestic Assistance (CFDA) number for all federal funds including ARRA funds given to its subrecipients.

In fiscal years 2008 and 2009, the department did not provide federal grant award numbers or CFDA numbers to its Workforce Investment Act subrecipients. Department personnel stated there have been no changes in CFDA numbers and the department has had the same subrecipients for many years and they did not know how the federal grant award number would be relevant to the subrecipients. However, without this information, the subrecipients may be:

- ◆ unaware they are spending federal funds and could fail to determine if they require a federal single audit.
- ◆ uninformed as to the federal requirements they are required to follow.
- ◆ reporting incorrect CFDA numbers on their Schedules of Expenditures of Federal Awards, which are provided to the federal government.

The department should provide CFDA numbers and federal award numbers to subrecipients in accordance with federal regulations.

RECOMMENDATION #10

We recommend the department provide its Workforce Investment Act subrecipients with the federal grant award and the Catalog of Federal Domestic Assistance numbers in accordance with federal regulations.

Chapter III –Disclosure Issue

Loaned Employees

During our audit period the Department of Labor and Industry (department) loaned two of its employees to other state agencies.

In June 2008, the department loaned an employee because the receiving agency needed help in a busy time and the department employee had special expertise the receiving agency needed. As of August 2009, the employee is still on loan to the receiving agency. There is no specific written agreement between the department, the receiving agency, and the employee, and the department continues to pay all the employee's salaries and benefits.

The department loaned the second employee to various departments and agencies throughout the audit period. In this case, the department entered into agreements with each receiving agency and employee, stating the receiving agency is responsible for all salaries and benefits except for the employee's Health Insurance Contributions, which are the responsibility of the department.

The Department of Administration (DOA) issued guidelines for loaning employees from one agency to another. These guidelines recommend the agencies and employee involved in the loan have a written agreement documenting: the loan, the receiving agency or division have a vacant position for the loaned employee, and the receiving agency be responsible for all salary and benefits. The guidelines also state they should be followed unless they conflict with negotiated labor contracts or specific statutes.

Department management said the department is responsible for its staff. It can choose to place its employees where the department sees the best benefit. Management further stated the department is not required to follow the DOA's guidelines, since the guidelines are not state policy.

Loaning employees to other agencies while continuing to pay their salaries and benefits does not match resources used with benefits received. In the case where the loan exceeds a year, the department in effect transfers a Full-Time Equivalent (FTE) position to the receiving agency. With these two loans, the department's fiscal year 2008 and 2009 financial schedules report \$59,500 of personal services expenditures when other agencies received the benefit of the employees' time.

We present this issue for disclosure and make no recommendation at this time.

Independent Auditor's Report and Department Financial Schedules

LEGISLATIVE AUDIT DIVISION

A-3

Tori Hunthausen, Legislative Auditor
Monica Huyg, Legal Counsel



Deputy Legislative Auditors
James Gillett
Angie Grove

INDEPENDENT AUDITOR'S REPORT

The Legislative Audit Committee
of the Montana State Legislature:

We have audited the accompanying Schedules of Changes in Fund Balances & Property Held in Trust, Schedules of Total Revenues & Transfers-In, and Schedules of Total Expenditures & Transfers-Out of the Department of Labor and Industry for each of the fiscal years ended June 30, 2009, and 2008. The information contained in these financial schedules is the responsibility of the department's management. Our responsibility is to express an opinion on these financial schedules based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial schedules are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial schedules. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial schedule presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in note 1, these financial schedules are prepared on the basis of Montana state accounting policy, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The schedules are not intended to be a complete presentation and disclosure of the department's assets, liabilities and cash flows.

In our opinion, the financial schedules referred to above present fairly, in all material respects, the results of operations and changes in fund balances and property held in trust of the Department of Labor and Industry for each of the fiscal years ended June 30, 2009, and 2008, in conformity with the basis of accounting described in note 1.

Respectfully submitted,

/s/ James Gillett

James Gillett, CPA
Deputy Legislative Auditor

August 19, 2009

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LABOR & INDUSTRY
SCHEDULE OF CHANGES IN FUND BALANCES & PROPERTY HELD IN TRUST
FOR THE FISCAL YEAR ENDED JUNE 30, 2009

| | General Fund | State Special Revenue Fund | Federal Special Revenue Fund | Enterprise Fund | Internal Service Fund | Agency Fund | Private Purpose Trust Fund |
|---|------------------|----------------------------|------------------------------|--------------------|-----------------------|----------------|----------------------------|
| FUND BALANCE: July 1, 2008 | \$ (67,080) | \$ 32,394,448 | \$ 59,912 | \$ 274,442,778 | \$ 478,983 | \$ 0 | \$ 5,169,000 |
| PROPERTY HELD IN TRUST: July 1, 2008 | | | | | | \$ 8,593 | |
| ADDITIONS | | | | | | | |
| Budgeted Revenues & Transfers-In | 63,698 | 42,134,360 | 37,369,669 | 156,086,277 | 4,862,571 | | |
| Nonbudgeted Revenues & Transfers-In | 617 | 1,070,317 | 5,183 | (3,725) | 113 | | 5,644,926 |
| Prior Year Revenues & Transfers-In Adjustments | | (259,145) | 174,552 | 12,044 | (44) | | 5,721,380 |
| Direct Entries to Fund Balance | 2,212,789 | (177,866) | (10,475) | | | | |
| Additions to Property Held in Trust | | | | | | 213,436 | |
| Total Additions | <u>2,277,104</u> | <u>42,767,666</u> | <u>37,538,929</u> | <u>156,094,596</u> | <u>4,862,640</u> | <u>213,436</u> | <u>11,366,306</u> |
| REDUCTIONS | | | | | | | |
| Budgeted Expenditures & Transfers-Out | 2,324,644 | 38,053,203 | 37,427,763 | 236,034,898 | 4,853,219 | | |
| Nonbudgeted Expenditures & Transfers-Out | | 586,167 | | (171,199) | 26,026 | | |
| Prior Year Expenditures & Transfers-Out Adjustments | (124) | 425,441 | 213,299 | (8,739) | 49,199 | | |
| Reductions in Property Held in Trust | | | | | | 159,870 | |
| Total Reductions | <u>2,324,520</u> | <u>39,064,811</u> | <u>37,641,062</u> | <u>235,854,960</u> | <u>4,928,444</u> | <u>159,870</u> | <u>0</u> |
| FUND BALANCE: June 30, 2009 | \$ (114,496) | \$ 36,097,303 | \$ (42,221) | \$ 194,682,414 | \$ 413,179 | \$ 0 | \$ 16,535,306 |
| PROPERTY HELD IN TRUST: June 30, 2009 | | | | | | \$ 62,159 | |

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-11.

LABOR & INDUSTRY
SCHEDULE OF CHANGES IN FUND BALANCES & PROPERTY HELD IN TRUST
FOR THE FISCAL YEAR ENDED JUNE 30, 2008

| | General Fund | State Special Revenue Fund | Federal Special Revenue Fund | Enterprise Fund | Internal Service Fund | Agency Fund | Private Purpose Trust Fund |
|---|------------------|----------------------------|------------------------------|--------------------|-----------------------|----------------|----------------------------|
| FUND BALANCE: July 1, 2007 | \$ (155,055) | \$ 30,116,258 | \$ 23,268 | \$ 259,493,818 | \$ 181,280 | \$ 0 | \$ 5,169,000 |
| PROPERTY HELD IN TRUST: July 1, 2007 | | | | | | \$ 39,795 | |
| ADDITIONS | | | | | | | |
| Budgeted Revenues & Transfers-In | 95,717 | 41,486,882 | 32,564,980 | 108,144,250 | 4,919,479 | | |
| Nonbudgeted Revenues & Transfers-In | 620 | 614,597 | 15,458 | 3,320 | 253 | | |
| Prior Year Revenues & Transfers-In Adjustments | | (54,089) | 167,221 | (894,077) | 197 | | |
| Direct Entries to Fund Balance | 2,231,466 | (56,998) | (69,634) | 344,975 | 27,197 | | |
| Additions to Property Held in Trust | | | | | | 158,153 | |
| Total Additions | <u>2,327,803</u> | <u>41,990,392</u> | <u>32,678,025</u> | <u>107,598,468</u> | <u>4,947,126</u> | <u>158,153</u> | <u>0</u> |
| REDUCTIONS | | | | | | | |
| Budgeted Expenditures & Transfers-Out | 2,242,542 | 38,528,933 | 32,483,032 | 92,427,771 | 4,615,394 | | |
| Nonbudgeted Expenditures & Transfers-Out | | 1,179,013 | 11,325 | 290,295 | 33,934 | | |
| Prior Year Expenditures & Transfers-Out Adjustments | (2,714) | 4,256 | 147,024 | (68,558) | 95 | | |
| Reductions in Property Held in Trust | | | | | | 189,355 | |
| Total Reductions | <u>2,239,828</u> | <u>39,712,202</u> | <u>32,641,381</u> | <u>92,649,508</u> | <u>4,649,423</u> | <u>189,355</u> | <u>0</u> |
| FUND BALANCE: June 30, 2008 | \$ (67,080) | \$ 32,394,448 | \$ 59,912 | \$ 274,442,778 | \$ 478,983 | \$ 0 | \$ 5,169,000 |
| PROPERTY HELD IN TRUST: June 30, 2008 | | | | | | \$ 8,593 | |

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.

Additional information is provided in the notes to the financial schedules beginning on page A-11.

LABOR & INDUSTRY
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2009

| | General Fund | State Special Revenue Fund | Federal Special Revenue Fund | Enterprise Fund | Internal Service Fund | Private Purpose Trust Fund | Total |
|---|--------------|----------------------------|------------------------------|-----------------|-----------------------|----------------------------|-----------------|
| TOTAL REVENUES & TRANSFERS-IN BY CLASS | | | | | | | |
| Licenses and Permits | | \$ 12,511,877 | | | | | \$ 12,511,877 |
| Taxes | \$ 617 | 10,771 | \$ 5,183 | \$ 1,250 | \$ 113 | | 16,684 |
| Charges for Services | | 2,637,378 | 2,400 | | 3,160,267 | | 5,801,295 |
| Investment Earnings | | 193,488 | | 11,819,914 | | | 12,013,402 |
| Fines and Forfeits | 63,698 | 3,580,854 | 540,766 | 1,005 | | | 4,186,323 |
| Sale of Documents, Merchandise and Property | | 161,352 | | 7,249 | | | 168,601 |
| Rentals, Leases and Royalties | | 50,762 | | | | | 50,762 |
| Contributions and Premiums | | 20,566,802 | | 76,198,955 | | | 96,765,757 |
| Grants, Contracts, and Donations | | 3,094,325 | | | \$ 11,366,306 | | 14,460,631 |
| Transfers-in | | 94,145 | 803,145 | | | | 897,290 |
| Capital Asset Sale Proceeds | | 40,160 | | | | | 40,160 |
| Inception of Lease/Installment Contract | | 3,528 | | | | | 3,528 |
| Federal Indirect Cost Recoveries | | | | | 1,702,260 | | 1,702,260 |
| Miscellaneous | | 90 | | 1,807,844 | | | 1,807,934 |
| Federal | | | 36,197,910 | 66,258,379 | | | 102,456,289 |
| Total Revenues & Transfers-In | 64,315 | 42,945,532 | 37,549,404 | 156,094,596 | 4,862,640 | 11,366,306 | 252,882,793 |
| Less: Nonbudgeted Revenues & Transfers-In | 617 | 1,070,317 | 5,183 | (3,725) | 113 | 5,644,926 | 6,717,431 |
| Prior Year Revenues & Transfers-In Adjustments | | (259,145) | 174,552 | 12,044 | (44) | 5,721,380 | 5,648,787 |
| Actual Budgeted Revenues & Transfers-In | 63,698 | 42,134,360 | 37,369,669 | 156,086,277 | 4,862,571 | 0 | 240,516,575 |
| Estimated Revenues & Transfers-In | 45,436 | 46,894,007 | 43,679,286 | 177,727,890 | 4,748,574 | | 273,095,193 |
| Budgeted Revenues & Transfers-In Over (Under) Estimated | \$ 18,262 | \$ (4,759,647) | \$ (6,309,617) | \$ (21,641,613) | \$ 113,997 | \$ 0 | \$ (32,578,618) |
| BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS | | | | | | | |
| Licenses and Permits | | \$ (1,957,770) | | | | | \$ (1,957,770) |
| Taxes | \$ (416) | (6,279) | \$ (790) | | | | (7,485) |
| Charges for Services | | (1,059,035) | 1,200 | \$ (750) | \$ (407,606) | | (1,466,191) |
| Investment Earnings | (20) | (123,267) | | (5,047,750) | | | (5,171,037) |
| Fines and Forfeits | 18,698 | (657,040) | 317 | (3,495) | | | (641,520) |
| Sale of Documents, Merchandise and Property | | (33,786) | | (52,752) | | | (86,538) |
| Rentals, Leases and Royalties | | (500) | | | | | (500) |
| Contributions and Premiums | | (212,684) | | (3,503,089) | | | (3,715,773) |
| Grants, Contracts, and Donations | | (752,441) | (1,905,557) | | | | (2,657,998) |
| Transfers-in | | 35,145 | (51,855) | | | | (16,710) |
| Capital Asset Sale Proceeds | | 8,160 | | | | | 8,160 |
| Federal Indirect Cost Recoveries | | | | | 521,603 | | 521,603 |
| Miscellaneous | | (150) | | 1,007,844 | | | 1,007,694 |
| Federal | | | (4,352,932) | (14,041,621) | | | (18,394,553) |
| Budgeted Revenues & Transfers-In Over (Under) Estimated | \$ 18,262 | \$ (4,759,647) | \$ (6,309,617) | \$ (21,641,613) | \$ 113,997 | \$ 0 | \$ (32,578,618) |

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-11.

LABOR & INDUSTRY
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2008

| | General Fund | State Special Revenue Fund | Federal Special Revenue Fund | Enterprise Fund | Internal Service Fund | Total |
|---|------------------|----------------------------|------------------------------|---------------------|-----------------------|-----------------------|
| | | | | | | \$ |
| TOTAL REVENUES & TRANSFERS-IN BY CLASS | | | | | | |
| Licenses and Permits | | \$ 13,104,004 | | | | \$ 13,104,004 |
| Taxes | \$ 620 | 13,604 | \$ 4,134 | \$ 13 | \$ 208 | 18,579 |
| Charges for Services | | 2,456,702 | 2,126 | 2,011 | 3,260,881 | 5,721,720 |
| Investment Earnings | | 475,662 | | 13,343,605 | | 13,819,267 |
| Fines and Forfeits | 95,717 | 4,131,785 | 564,730 | 4,330 | | 4,796,562 |
| Sale of Documents, Merchandise and Property | | 46,991 | | 15,832 | | 62,823 |
| Rentals, Leases and Royalties | | 53,521 | | | | 53,521 |
| Contributions and Premiums | | 17,159,888 | | 86,289,037 | | 103,448,925 |
| Grants, Contracts, and Donations | | 4,428,814 | | | | 4,428,814 |
| Transfers-in | | 172,842 | 1,299,031 | | | 1,471,873 |
| Capital Asset Sale Proceeds | | 3,477 | | | | 3,477 |
| Inception of Lease/Installment Contract | | | | 11,325 | | 11,325 |
| Federal Indirect Cost Recoveries | | | | | 1,658,795 | 1,658,795 |
| Miscellaneous | | 100 | | | 45 | 1,006,885 |
| Federal | | | | 1,006,740 | | 37,458,238 |
| Total Revenues & Transfers-In | 96,337 | 42,047,390 | 32,747,659 | 107,253,493 | 4,919,929 | 187,064,808 |
| Less: Nonbudgeted Revenues & Transfers-In | | 620 | 614,597 | 3,320 | 253 | 634,248 |
| Prior Year Revenues & Transfers-In Adjustments | | (54,089) | 15,458 | (894,077) | 197 | (780,748) |
| Actual Budgeted Revenues & Transfers-In | 95,717 | 41,486,882 | 32,564,980 | 108,144,250 | 4,919,479 | 187,211,308 |
| Estimated Revenues & Transfers-In | | 45,436 | 45,133,231 | 105,879,680 | 3,996,513 | 191,042,308 |
| Budgeted Revenues & Transfers-In Over (Under) Estimated | \$ 50,281 | \$ (3,646,349) | \$ (3,422,468) | \$ 2,264,570 | \$ 922,966 | \$ (3,831,000) |
| BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS | | | | | | |
| Licenses and Permits | | \$ (1,316,157) | | | | \$ (1,316,157) |
| Taxes | \$ (416) | (6,280) | \$ (689) | | | (7,385) |
| Charges for Services | | (1,238,673) | (375) | \$ 811 | \$ 430,781 | (807,456) |
| Investment Earnings | (20) | (7,009) | | (29,582) | | (36,611) |
| Fines and Forfeits | 50,717 | (79,338) | 35,858 | (870) | | 6,367 |
| Sale of Documents, Merchandise and Property | | 30,106 | | (44,168) | | (14,062) |
| Rentals, Leases and Royalties | | (4,818) | | | | (4,818) |
| Contributions and Premiums | | 50,942 | | 446,623 | | 497,565 |
| Grants, Contracts, and Donations | | (1,093,594) | (5,726) | | | (1,099,320) |
| Transfers-in | | 46,995 | (515,524) | | | (468,529) |
| Capital Asset Sale Proceeds | | (28,523) | | | | (28,523) |
| Federal Indirect Cost Recoveries | | | | | 492,185 | 492,185 |
| Miscellaneous | | | | 1,803,231 | | 1,803,231 |
| Federal | | | | 88,525 | | (2,847,487) |
| Budgeted Revenues & Transfers-In Over (Under) Estimated | \$ 50,281 | \$ (3,646,349) | \$ (3,422,468) | \$ 2,264,570 | \$ 922,966 | \$ (3,831,000) |

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-11.

LABOR & INDUSTRY
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2009

| PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT | BUSINESS STANDARDS DIVISION | COMMISSIONER'S OFFICE AND CENTRALIZED SERVICES DIVISION | EMPLOYMENT RELATIONS DIVISION | OFFICE OF COMMUNITY SERVICES | UNEMPLOYMENT INSURANCE DIVISION | WORKERS COMPENSATION COURT | WORKFORCE SERVICES DIVISION | Total |
|---|--------------------------------|---|----------------------------------|---------------------------------|------------------------------------|-------------------------------|--------------------------------|-----------------------|
| Personal Services | | | | | | | | |
| Salaries | \$ 5,785,873 | \$ 3,405,124 | \$ 5,510,480 | \$ 279,562 | \$ 6,062,410 | \$ 358,016 | \$ 12,297,937 | \$ 33,699,402 |
| Other Compensation | 100,750 | 5,000 | 1,250 | 5,450 | 5,450 | 5,165 | 5,165 | 117,615 |
| Employee Benefits | 2,067,685 | 972,129 | 1,841,082 | 90,701 | 2,163,538 | 111,450 | 4,327,606 | 11,574,191 |
| Personal Services-Other | (93,538) | 41,928 | | | | | | (51,610) |
| Total | 7,860,770 | 4,419,181 | 7,356,562 | 371,513 | 8,231,398 | 469,466 | 16,630,708 | 45,339,598 |
| Operating Expenses | | | | | | | | |
| Other Services | 1,007,722 | 898,765 | 966,248 | 104,037 | 2,113,701 | 36,970 | 1,280,601 | 6,408,044 |
| Supplies & Materials | 358,039 | 162,156 | 417,471 | 29,283 | 211,411 | 6,086 | 613,070 | 1,997,516 |
| Communications | 372,523 | 62,587 | 336,262 | 91,542 | 1,115,935 | 7,354 | 438,102 | 2,424,305 |
| Travel | 544,452 | 49,889 | 251,648 | 46,992 | 91,034 | 14,926 | 427,630 | 1,426,571 |
| Rent | 386,750 | 273,762 | 581,832 | 23,340 | 302,098 | 30,236 | 927,406 | 2,525,424 |
| Utilities | 4,563 | | 8,023 | | 21,140 | 3,671 | 138,581 | 175,978 |
| Repair & Maintenance | 89,168 | 27,664 | 114,461 | 2,755 | 100,620 | 2,615 | 373,492 | 710,775 |
| Other Expenses | 2,161,249 | 377,462 | 905,252 | 103,154 | 1,146,804 | 45,121 | 1,604,544 | 6,343,586 |
| Goods Purchased For Resale | 2,272 | | | | | | | 2,272 |
| Total | 4,926,738 | 1,852,285 | 3,581,197 | 401,103 | 5,102,743 | 146,979 | 6,003,426 | 22,014,471 |
| Equipment & Intangible Assets | | | | | | | | |
| Equipment | 35,324 | (10,187) | 22,557 | | 6,400 | | 48,576 | 102,670 |
| Intangible Assets | | (49,170) | | | | | | (49,170) |
| Total | 35,324 | (59,357) | 22,557 | | 6,400 | | 48,576 | 53,500 |
| Grants | | | | | | | | |
| From State Sources | 17,928 | | | | | | 364,042 | 381,970 |
| From Federal Sources | | | | | 2,458,509 | | 8,148,189 | 10,606,698 |
| From Other Sources | | | | | | | 16,000 | 16,000 |
| Total | 17,928 | | | | 2,458,509 | | 8,528,231 | 11,004,668 |
| Benefits & Claims | | | | | | | | |
| To Individuals | | 2,429,814 | | | 234,246,830 | | | 236,676,644 |
| From State Sources | | 109,100 | | | | | | 109,100 |
| Insurance Payments | | (492,028) | | | | | | (492,028) |
| Total | | 2,046,886 | | | 234,246,830 | | | 236,293,716 |
| Transfers-out | | | | | | | | |
| Fund transfers | 23,071 | | 94,145 | 213,148 | 803,145 | | 3,433,049 | 4,566,558 |
| Mandatory Transfers | | | | | 188,345 | | 172,084 | 360,429 |
| Total | 23,071 | | 94,145 | 213,148 | 991,490 | | 3,605,133 | 4,926,987 |
| Debt Service | | | | | | | | |
| Capital Leases | | | | | 3,775 | | | 3,775 |
| Total | | | | | 3,775 | | | 3,775 |
| Other Post Employment Benefits | | | | | | | | |
| Other Post Employment Benefits | | 177,082 | | | | | | 177,082 |
| Total | | 177,082 | | | | | | 177,082 |
| Total Expenditures & Transfers-Out | \$ 12,863,831 | \$ 6,389,191 | \$ 13,101,347 | \$ 3,444,273 | \$ 248,582,636 | \$ 616,445 | \$ 34,816,074 | \$ 319,813,797 |
| EXPENDITURES & TRANSFERS-OUT BY FUND | | | | | | | | |
| General Fund | | \$ 271,889 | \$ 1,152,991 | \$ 145,437 | | \$ 754,203 | \$ 2,324,520 | |
| State Special Revenue Fund | \$ 12,934,315 | 620,944 | 10,746,049 | 280,376 | \$ 3,027,347 | 616,445 | 10,839,335 | 39,064,811 |
| Federal Special Revenue Fund | 8,643 | 488,787 | 742,844 | 3,018,460 | 10,184,485 | | 23,197,843 | 37,641,062 |
| Enterprise Fund | | | 459,463 | | | | 24,693 | 235,854,960 |
| Internal Service Fund | (79,127) | 5,007,571 | | | 235,370,804 | | | 4,928,444 |
| Total Expenditures & Transfers-Out | 12,863,831 | 6,389,191 | 13,101,347 | 3,444,273 | 248,582,636 | 616,445 | 34,816,074 | 319,813,797 |
| Less: Nonbudgeted Expenditures & Transfers-Out | (54,827) | 105,152 | (301,974) | 72,279 | 320,829 | | 299,535 | 440,994 |
| Prior Year Expenditures & Transfers-Out Adjustments | 26,407 | 45,611 | 437,319 | 99,134 | (5,385) | (78) | 76,066 | 679,074 |
| Actual Budgeted Expenditures & Transfers-Out | 12,892,251 | 6,238,428 | 12,966,002 | 3,272,861 | 248,267,192 | 616,523 | 34,440,473 | 318,693,729 |
| Budget Authority | 17,295,484 | 7,518,434 | 14,675,364 | 4,019,275 | 443,792,890 | 647,325 | 53,428,715 | 541,377,487 |
| Unspent Budget Authority | \$ 4,403,233 | \$ 1,280,006 | \$ 1,709,362 | \$ 746,415 | \$ 195,525,698 | \$ 30,802 | \$ 18,988,242 | \$ 222,683,758 |
| UNSPENT BUDGET AUTHORITY BY FUND | | | | | | | | |
| General Fund | | \$ 2 | \$ 1 | \$ 1 | | \$ 6 | \$ 10 | |
| State Special Revenue Fund | \$ 1,879,618 | 347,313 | 1,009,636 | 229,068 | \$ 13,863 | 30,802 | 944,863 | 4,455,163 |
| Federal Special Revenue Fund | 5,857 | 834,554 | 28,039 | 517,346 | 5,021,823 | | 18,020,235 | 24,427,854 |
| Enterprise Fund | | | 671,686 | | 190,490,012 | | 23,138 | 191,184,836 |
| Internal Service Fund | 2,517,758 | 98,137 | | | | | | 2,615,895 |
| Unspent Budget Authority | \$ 4,403,233 | \$ 1,280,006 | \$ 1,709,362 | \$ 746,415 | \$ 195,525,698 | \$ 30,802 | \$ 18,988,242 | \$ 222,683,758 |

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-11.

LABOR & INDUSTRY
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2008

| PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT | BUSINESS STANDARDS DIVISION | COMMISSIONER'S OFFICE AND CENTRALIZED SERVICES DIVISION | EMPLOYMENT RELATIONS DIVISION | OFFICE OF COMMUNITY SERVICES | UNEMPLOYMENT INSURANCE DIVISION | WORKERS COMPENSATION COURT | WORKFORCE SERVICES DIVISION | Total |
|---|-----------------------------|---|-------------------------------|------------------------------|---------------------------------|----------------------------|-----------------------------|-----------------------|
| Personal Services | | | | | | | | |
| Salaries | \$ 5,823,054 | \$ 3,135,603 | \$ 5,107,490 | \$ 234,359 | \$ 5,494,942 | \$ 341,374 | \$ 12,269,850 | \$ 32,406,672 |
| Other Compensation | 103,000 | | 2,900 | 525 | 4,650 | | 6,140 | 117,215 |
| Employee Benefits | 2,045,452 | 897,651 | 1,718,717 | 80,148 | 1,980,444 | 106,905 | 4,350,222 | 11,179,539 |
| Personal Services-Other | (161,586) | 94,975 | | | | | | (66,611) |
| Total | 7,809,920 | 4,128,229 | 6,829,107 | 315,032 | 7,480,036 | 448,279 | 16,626,212 | 43,636,815 |
| Operating Expenses | | | | | | | | |
| Other Services | 1,070,909 | 895,976 | 992,103 | 41,397 | 1,684,054 | 19,471 | 1,213,083 | 5,916,993 |
| Supplies & Materials | 570,656 | 183,592 | 734,529 | 80,837 | 226,617 | 15,986 | 598,676 | 2,410,893 |
| Communications | 394,660 | 62,806 | 409,357 | 23,786 | 629,603 | 7,239 | 414,270 | 1,941,721 |
| Travel | 587,174 | 49,646 | 262,651 | 75,872 | 116,688 | 15,900 | 471,876 | 1,579,807 |
| Rent | 382,947 | 259,629 | 543,053 | 20,259 | 291,785 | 27,845 | 1,001,472 | 2,526,990 |
| Utilities | 5,208 | | 9,160 | | 26,485 | 3,834 | 146,033 | 190,720 |
| Repair & Maintenance | 87,407 | 23,734 | 72,723 | 1,336 | 53,949 | 2,561 | 321,156 | 562,866 |
| Other Expenses | 2,093,857 | 359,927 | 788,894 | 158,942 | 646,487 | 45,835 | 1,688,865 | 5,782,807 |
| Goods Purchased For Resale | 16,286 | | | | | | | 16,286 |
| Total | 5,209,104 | 1,835,310 | 3,812,470 | 402,429 | 3,675,668 | 138,671 | 5,855,431 | 20,929,083 |
| Equipment & Intangible Assets | | | | | | | | |
| Equipment | 350,931 | 10,187 | 64,879 | | | | 19,803 | 445,800 |
| Capital leases - equipment | | | | | 11,325 | | | 11,325 |
| Total | 350,931 | 10,187 | 64,879 | | 11,325 | | 19,803 | 457,125 |
| Grants | | | | | | | | |
| From State Sources | 11,881 | | | | | | 308,878 | 320,759 |
| From Federal Sources | | | | 2,155,787 | | | 7,038,180 | 9,193,967 |
| Total | 11,881 | | | 2,155,787 | | | 7,347,058 | 9,514,726 |
| Benefits & Claims | | | | | | | | |
| To Individuals | | | 2,190,723 | | 90,333,065 | | | 92,523,788 |
| From State Sources | | | 122,989 | | | | | 122,989 |
| OPEB Expenses | | 165,460 | | | | | | 165,460 |
| Insurance Payments | | | 354,433 | | | | | 354,433 |
| Total | | 165,460 | 2,668,145 | | 90,333,065 | | | 93,166,670 |
| Transfers-out | | | | | | | | |
| Fund transfers | 88,335 | | 105,994 | 275,275 | 1,299,031 | | 1,679,035 | 3,447,670 |
| Mandatory Transfers | | | | 564,555 | | | 171,923 | 736,478 |
| Total | 88,335 | | 105,994 | 275,275 | 1,863,586 | | 1,850,958 | 4,184,148 |
| Debt Service | | | | | | | | |
| Capital Leases | | | | | 3,775 | | | 3,775 |
| Total | | | | | 3,775 | | | 3,775 |
| Total Expenditures & Transfers-Out | \$ 13,470,171 | \$ 6,139,186 | \$ 13,480,595 | \$ 3,148,523 | \$ 103,367,455 | \$ 586,950 | \$ 31,699,462 | \$ 171,892,342 |
| EXPENDITURES & TRANSFERS-OUT BY FUND | | | | | | | | |
| General Fund | | \$ 263,277 | \$ 1,112,617 | \$ 124,999 | | \$ 738,935 | \$ 2,239,828 | |
| State Special Revenue Fund | \$ 13,622,471 | 595,745 | 10,656,334 | 266,158 | \$ 1,623,324 | 586,950 | 12,361,220 | 39,712,202 |
| Federal Special Revenue Fund | | 478,441 | 641,923 | 2,757,366 | 10,176,163 | | 18,587,488 | 32,641,381 |
| Enterprise Fund | | | 1,069,721 | | 91,567,968 | | 11,819 | 92,649,508 |
| Internal Service Fund | (152,300) | 4,801,723 | | | | | | 4,649,423 |
| Total Expenditures & Transfers-Out | 13,470,171 | 6,139,186 | 13,480,595 | 3,148,523 | 103,367,455 | 586,950 | 31,699,462 | 171,892,342 |
| Less: Nonbudgeted Expenditures & Transfers-Out | (76,327) | 186,296 | 1,157,075 | 52,382 | (52,815) | | 247,955 | 1,514,566 |
| Prior Year Expenditures & Transfers-Out Adjustments | 19,068 | 34 | (11,986) | | (45,440) | 182 | 118,245 | 80,103 |
| Actual Budgeted Expenditures & Transfers-Out | 13,527,430 | 5,952,856 | 12,335,506 | 3,096,141 | 103,465,710 | 586,768 | 31,333,262 | 170,297,673 |
| Budget Authority | 16,838,124 | 6,879,899 | 13,202,261 | 3,353,870 | 111,068,132 | 624,310 | 47,538,798 | 199,505,394 |
| Unspent Budget Authority | \$ 3,310,694 | \$ 927,043 | \$ 866,755 | \$ 257,729 | \$ 7,602,422 | \$ 37,542 | \$ 16,205,536 | \$ 29,207,721 |
| UNSPENT BUDGET AUTHORITY BY FUND | | | | | | | | |
| General Fund | | \$ 2 | \$ 1 | \$ 1 | | \$ 2 | \$ 2 | \$ 6 |
| State Special Revenue Fund | \$ 875,287 | 430,223 | 730,125 | 93,083 | \$ 3,758 | 37,542 | 755,970 | 2,925,988 |
| Federal Special Revenue Fund | | 277,258 | 102,129 | 164,645 | 6,761,362 | | 15,415,257 | 22,720,651 |
| Enterprise Fund | | | 34,500 | | 837,302 | | 34,307 | 906,109 |
| Internal Service Fund | 2,435,407 | 219,560 | | | | | | 2,654,967 |
| Unspent Budget Authority | \$ 3,310,694 | \$ 927,043 | \$ 866,755 | \$ 257,729 | \$ 7,602,422 | \$ 37,542 | \$ 16,205,536 | \$ 29,207,721 |

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-11.

Department of Labor and Industry
Notes to the Financial Schedules
For the Two Fiscal Years Ended June 30, 2009

1. Summary of Significant Accounting Policies

Basis of Accounting

The department uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental fund category (General, State Special Revenue, and Federal Special Revenue) and liabilities of certain post employment healthcare plans. In applying the modified accrual basis, the department, records:

- ◆ Revenues when it receives cash or when receipts are realizable, measurable, earned, and available to pay current period liabilities.
- ◆ Expenditures for valid obligations when the department incurs the related liability and it is measurable, with the exception of the cost of employees' annual and sick leave. State accounting policy requires the department to record the cost of employees' annual and sick leave when used or paid.

The department uses accrual basis accounting for its Proprietary (Enterprise and Internal Service) and Fiduciary (Private-Purpose Trust and Agency) fund categories. Under the accrual basis, as defined by state accounting policy, the department records revenues in the accounting period when realizable, measurable, and earned, and records expenses in the period incurred when measurable.

Expenditures and expenses may include: entire budgeted service contracts even though the department receives the services in a subsequent fiscal year; goods ordered with a purchase order before fiscal year-end, but not received as of fiscal year-end; and equipment ordered with a purchase order before fiscal year-end.

Basis of Presentation

The financial schedule format is in accordance with the policy of the Legislative Audit Committee. The financial schedules are prepared from the transactions posted to the state's accounting system without adjustment.

The department uses the following funds:

Governmental Fund Category

- ◆ **General Fund** – to account for all financial resources except those required to be accounted for in another fund.

- ◆ **State Special Revenue Fund** – to account for proceeds of specific revenue sources (other than private-purpose trusts or major capital projects) that are legally restricted to expenditures for specific state program purposes. Department State Special Revenue Funds include Professional and Occupational Licensing Boards, Weights and Measures, Building Codes, Uninsured Employers, Workers' Compensation Regulation, Employment Security, and contracts from Public Health and Human Services.
- ◆ **Federal Special Revenue Fund** – to account for activities funded from federal revenue sources. Department Federal Special Revenue Funds include Employment Services, Workforce Investment Act, and Unemployment Insurance Administrative Funds.

Proprietary Fund Category

- ◆ **Internal Service Fund** – to account for the financing of goods or services provided by one department or agency to other departments or agencies of state government or to other governmental entities on a cost-reimbursement basis. Department Internal Service Funds include funds to accumulate and distribute costs. These include the Commissioner's Office and Centralized Services Division, the Technical Services Bureau Direct Charges, Business Standards Division Attorneys, and the Business Services Division Hearing Fund.
- ◆ **Enterprise Fund** – to account for operations (a) financed and operated in a manner similar to private business enterprises, where the legislature intends that the department finance or recover costs primarily through user charges; (b) where the legislature has decided that periodic determination of revenues earned, expenses incurred or net income is appropriate; (c) where the activity is financed solely by a pledge of the net revenues from fees and charges of the activity; or (d) when laws or regulations require that the activities' cost of providing services, including capital costs, be recovered with fees and charges rather than with taxes or similar revenues. Department Enterprise Funds include the Subsequent Injury Fund and the Unemployment Insurance (UI) Fund. The June 30, 2009, UI fund balance is \$197,280,889. The fund balance includes \$194,735,772 in cash held by the United States Treasury.

Fiduciary Fund Category

- ◆ **Private-Purpose Trust Fund** – to account for activity of any trust arrangement not properly reported in a pension fund or an investment trust fund where the principal and income benefit individuals, private organizations, or other governments. Department private-purpose trust funds are the Workers' Compensation Plan I & II Securities Funds.
- ◆ **Agency Fund** – to account for resources held by the state in a custodial capacity. The department's agency fund is the Wage Collection Fund.

2. General Fund Balance (negative balances)

The negative fund balance in the General Fund does not indicate overspent appropriation authority. The department has authority to pay obligations from the statewide General Fund within its appropriation limits. The department expends cash or other assets from the statewide fund when it pays General Fund obligations. The department's outstanding liabilities exceed the assets it has placed in the fund, resulting in negative ending General Fund balances for each of the fiscal years ended June 30, 2008 and June 30, 2009.

3. Direct Entries to Fund Balance

Direct entries to fund balance in the General Fund include entries generated by SABHRS to reflect the flow of resources within individual funds shared by separate agencies.

4. Private-Purpose Trust Fund Prior-Year Revenues

In fiscal year 2009, the department booked \$5,721,380 of prior-year revenues and transfers-in adjustments in its private-purpose trust fund on the Schedule of Total Revenues and Transfers-In for activity that should have been reported in fiscal year 2008.

5. Unemployment Insurance

Due to a weakening economy, the department has experienced an increase in Unemployment Insurance benefits and claims paid during fiscal year 2009. The federal government funded a portion of the benefit increase through increased weekly benefit amounts and extended benefit periods, which caused an increase in Federal Revenue in the department's Enterprise Fund for fiscal year 2009. These increases are described below.

| | FY 2008 | FY 2009 | Increase | Percentage Increase |
|--|--------------|---------------|---------------|---------------------|
| Benefits and Claims Paid to Individuals in Unemployment Insurance Division | \$90,333,065 | \$234,246,830 | \$143,913,765 | 159.31% |
| Federal Revenue in Enterprise Fund | \$6,591,925 | \$66,258,379 | \$59,666,454 | 905.15% |

6. American Recovery and Reinvestment Act

The American Recovery and Reinvestment Act (ARRA) was enacted by the United States Congress to preserve and create jobs and promote economic recovery.

The Department of Labor and Industry expects to receive federal funding from ARRA totaling approximately \$222,654,547. Of this amount, \$15,354,097 was appropriated in House Bill 645 of the 2009 Legislative Session and \$197,932 was awarded through other competitive or noncompetitive grants and \$207,129,140 is for UI benefits. Of these amounts, \$827,916, \$0, and \$26,491,303, respectively, were received by June 30, 2009, and \$829,341, \$0, and \$21,167,804 respectively, were spent by June 30, 2009.

DEPARTMENT OF LABOR
AND INDUSTRY

DEPARTMENT RESPONSE



Governor Brian Schweitzer

Montana

Department of Labor and Industry

Centralized Services Division

B-3

October 26, 2009

Tori Hunthausen, Legislative Auditor
Room 160, State Capitol
PO Box 201705
Helena, MT 59620-1705

RECEIVED

OCT 27 2009

LEGISLATIVE AUDIT DIV.

Dear Ms. Hunthausen:

We have reviewed the recommendations in the Department of Labor and Industry Financial Compliance Audit for the two fiscal years ending June 30, 2009. Our responses follow:

Recommendation #1

We recommend the department:

- A. Complete documentation of its remaining internal controls.
- B. Monitor and test the implementation of its internal controls in accordance with state accounting policy.

Concur. The Department has been diligent in the review, documentation, monitoring, and testing of internal controls and will continue as such.

Recommendation #2

We recommend the department follow its established controls and operate a Benefits Accuracy Measurement program in accordance with state administrative rules and federal regulations.

Concur. Benefits Accuracy Measurement staff resumed BAM reviews October 1, 2009.

Recommendation #3

We recommend the department:

- A. Return the excess cash in the Unemployment Insurance benefit account to its rightful owners.

Concur. The department is continuing a reconciliation process in the benefit account and will return the cash to the UI trust fund as the amounts are clearly identified.

- B. Implement controls to ensure it minimizes its federal cash balances in compliance with federal regulations.

Concur. The department will change its controls to offset the EFT draw for daily cash needs by December 31, 2009.

Recommendation #4

We recommend the department follow its established controls to ensure its employees' salaries and benefits are charged to programs in accordance with state and federal laws and regulations.

Partially Concur. The department concurs with the recommendation as stated, however, in the first instance, charges to federal programs totaled \$170.32. These charges were allocated to federal funds using the employee's default task profile based on time studies for the period April to June 2008, which was consistent with the time distribution methodology. With regard to the other two instances, the department is in the process of making adjusting entries to assure federal compliance.

Recommendation #5

We recommend the department follow its internal control procedures over processing travel and pro-card expenditures to ensure compliance with state and federal laws and regulations.

Concur. The Department has established additional controls to assure compliance with state and department laws and policies for pro-card and travel expenditures.

Recommendation #6

We recommend the department establish internal control procedures to ensure it properly calculates its indirect cost rate in accordance with federal regulations.

Concur. After consulting with our federal cost negotiator, it was determined that adjustment in 2009 was not necessary, and that this overage would be built into the "carry forward" piece of our standard CAP calculation, thus lowering the rate in future years. The Department established and documented internal controls for indirect cost rate calculation in June of 2009.

Recommendation #7

We recommend the department establish internal control procedures to ensure it reports expenditure of federal ARRA assistance on its Schedule of Expenditures of Federal Awards in accordance with federal regulations.

Concur. The department has established controls for reporting expenditures on its SEFA and the mistake was corrected prior to final submission.

Recommendation #8

We recommend the department:

- A. Document its internal controls over recording private-purpose trust fund activity and deferred revenue, and**

Concur. The department updated its procedures for recording private purpose trust fund activity on July 6, 2009 to reflect the proper accounting treatment for these types of funds.

B. Record private-purpose trust fund activity and deferred revenue in accordance with state accounting policy.

Concur. An adjustment was made to correct the activity in the private purpose trust funds on June 26, 2009.

Recommendation #9

We recommend the department deposit wage collections in accordance with state law.

Concur. While the department is required by statute to deposit wages collected into the wage collection funds, it delays payment to the parties and it adds a layer of administrative costs that could otherwise be avoided. The department will pursue modifying Section 39-3-213, MCA to better serve clients with wage and hour cases.

Recommendation #10

We recommend the department provide its Workforce Investment Act sub recipients with the federal grant award and the Catalog of Federal Domestic Assistance numbers in accordance with federal regulations.

Concur. The Department will implement recommendation on program year 2010 contracts.

Sincerely,


Tammy Lavigne
Centralized Services Division Administrator
Department of Labor and Industry

Cc: Keith Kelly, Commissioner
Encl.